

STATEMENT OF CONSIDERATIONS

REQUEST BY GENERAL ELECTRIC CORPORATE RESEARCH AND DEVELOPMENT (GE) FOR AN ADVANCE WAIVER OF DOMESTIC AND FOREIGN PATENT RIGHTS TO INVENTIONS MADE UNDER COOPERATIVE AGREEMENT NO. DE-FC26-01NT41020 ENTITLED "ADVANCED COMBUSTION SYSTEM FOR NEXT GENERATION GAS TURBINES"; W(A)-01-028, CH1075.

GE has requested an advance waiver of domestic and foreign patent rights to inventions its employees may conceive or first actually reduce to practice in the performance of Cooperative Agreement No. DE-FC26-01NT41020.

As brought out in the attached waiver petition, the scope of work includes the design, manufacture and evaluation of prototype advanced combustor designs and completing a full scale conceptual design. The combustor design goal is to attain at least 50% NO_x reduction compared to state of the art lean premixed gas turbine combustors at operating conditions above those of a F-class gas turbine. The total program cost is \$1,970,850 with GE providing \$788,340 or a 40 percent cost share. The period of performance is 06/04/01 through 12/30/03.

Referring to paragraphs 4 and 5 of the waiver petition, GE is the leading manufacturer of large scale gas turbine products for the global market. The development of the dry NO_x combustor has made GE the current industrial leader for large scale low emission gas turbines. Additionally, GE has been working with the Air Force Research Laboratory on designs resembling the one proposed since 1994, accumulating over 300 hours of test stand experience. Several Patents have resulted from this work.

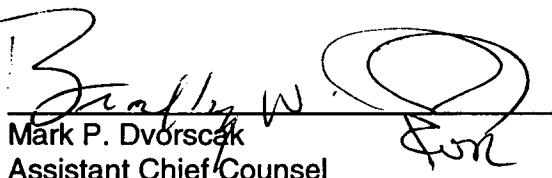
As noted in paragraphs 8 and 9 of GE's waiver petition, it is expected that successful development of this technology should place GE in a unique position to capitalize on its use as a leading world manufacturer of high efficiency, low emissions, power generation equipment and provide the corporate incentive for pursuing its development. Since the manufacturer is already the low emissions leader for large scale gas turbines, the development of the proposed concept does nothing to increase market concentration on that basis. It does enable the contractor to further reduce emissions and improve the best available technology.

GE has agreed to the terms of the usual advance patent waiver, including background patent rights, and background data licensing provisions. These advance patent waiver provisions include a Government license, march-in rights and preference for U.S. industry provisions comparable to those set out in 35 U.S.C. 202-204, as well as a U.S. Competitiveness Clause which requires that products embodying a waived invention or produced through the use of a waived invention be manufactured substantially in the United States unless the participant can show to the satisfaction of DOE that it is not commercially feasible to do so. In the event DOE agrees to foreign manufacture, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, e.g., recoupment of the Government's investment, etc. GE has also agreed to make the above conditions binding on any assignee or licensee or any entity otherwise acquiring rights to any waived invention, including subsequent assignees or licensees. Additionally, should GE or other entity receiving rights in any waived invention undergo a change in ownership

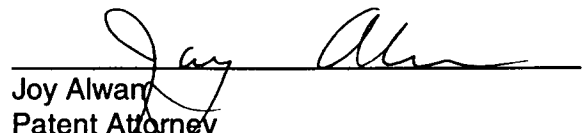
amounting to a controlling interest, the waiver, assignment, license or other transfer of rights in the waived invention is suspended until approved in writing by DOE.

The grant of this waiver is not anticipated to result in any adverse effects on competition or the public health, safety and welfare. It will allow GE to further reduce emissions and improve the best available technology.

Considering the foregoing, and in view of the statutory objectives to be attained and the factors to be considered, it has been determined that this advance waiver of patent rights will best serve the interest of the United States and the general public. Subject to GE providing at least forty percent (40%) cost sharing, in aggregate over the term of this agreement, it is recommended that the waiver be granted.


Mark P. Dvorscak
Assistant Chief Counsel
Office of Intellectual Property Law


Date: 6/12/02


Joy Alwan
Patent Attorney
Office of Intellectual Property Law

Date: 12 June 02

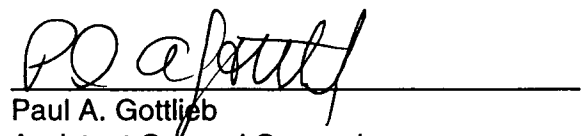
Based on the foregoing Statement of Considerations, it is determined that the interest of the United States and the general public will be best served by a waiver of the United States and foreign rights as set forth therein, and therefore the waiver is granted. This waiver shall not apply to any extension or modification of this cooperative agreement, where, through such modification or extension, the purpose, scope, or cost share of the agreement has been substantially altered.

CONCURRENCE:


George Rudins
Deputy Assistant Secretary
for Coal and Power Systems
FE-20

Date: _____

APPROVAL:


Paul A. Gottlieb
Assistant General Counsel
For Technology Transfer and
Intellectual Property

Date: 8-5-02